

no more than an auctioneer in a larger sense.

In his opinion, if the exchange submitted to the State regulation and State inspection of the books of brokers while retaining disciplinary powers over members and the right to limit its membership, Mr. Undermyer thought the result would be to increase public confidence as to the integrity of the exchange.

He advocated a provision in the law prohibiting a broker to purchase stock unless on a 20 per cent. margin as the best means to curb speculation. He also urged strong provisions to prevent manipulation through matched orders and the hypothecation of customers' securities as well as general provisions to govern the exchange and their removal from the list.

Mr. Undermyer wanted a provision that all exchanges have their members keep full and accurate books and accounts showing the actual names and transactions of their customers and to give access to these books not only to the officers of the exchange, but to the Superintendent of Banks. He insisted that incorporation would accomplish nothing if the Superintendent did not have power of inspecting brokers' books.

Mr. Undermyer's Address.

In his address Mr. Undermyer said:

"The New York Stock Exchange is in no sense a private enterprise. It is grossly misrepresented by the defenders of the present form of organization, that it is not engaged in business and that its only function is to provide a meeting place where its members may deal with one another under prescribed rules."

The exchange owns the entire stock of the New York Quotation Company, which for a specified rental supplies members' offices south of Chambers street, New York city, with a ticker service. For \$5000 a year, under contract terminable upon one day's notice, it sells the quotations to a subsidiary of the Western Union, the Gold and Stock Telegraph Company, which also maintains a ticker service. The latter, however, can deliver the quotations to such persons only as the exchange approves and under no circumstances to members' offices south of Chambers street or to any competing exchange in New York city.

The quotations are gathered from the floor of the exchange and transmitted by its own employees to the offices of the New York Quotation Company and the Gold and Stock Telegraph Company and thence distributed throughout the State and foreign countries. The exchange retains the right to determine who shall and who shall not receive these quotations. There is no other method by which quotations of transactions on the exchange are obtainable.

It is the market place of the entire country and of foreign countries for securities and the only public market in the United States where money is loaned and borrowed.

Great and much needed reforms in the organization and methods of our corporations may be legitimately worked out through the power wielded by the Stock Exchange over the listing of securities. Much of the confusion and delay in the defective corporate regulation due to the diversity of State laws and to the bidding of the States against one another in laxity of administration in order to attract corporations within their borders may be corrected and uniformity of methods introduced through the listing department of the exchange.

Enforcement of Publicity.

This complete publicity as to all the affairs of a corporation may be uniformly enforced. The scandalous practices of officers and directors in speculating upon inside and advance information as to the action of their corporations may be curbed if not stopped. In short, its opportunities as an agency of corporate reform are almost endless, provided its own practices can be reformed so as to entitle it to exercise these broad powers.

Instead of the investment business of the country being conducted in the exchange as it now has been to some extent, it may for some time past, it will become necessary to the reputation and stability of a security that it should be listed. The general public, which has grown to look upon the exchange with distrust, will be given new confidence in it when it is under legal supervision.

Notwithstanding these facts it contends that it should be permitted to continue its voluntary organization with the privilege and freedom of action of a private club and should not be made subject to legislative or judicial control or supervision and that it is not amenable to regulation.

It is inconceivable that such an institution wielding such power and equipped to perform such useful and important functions in our economic system should be uncontrolled by law.

Another hand in the exchange regulation would have been the exchange transactions which now disgrace it, bringing in their place a greater volume of business of an investment and otherwise legitimate character and marking the dawn of a new era of prosperity for its members and of usefulness to the public.

Power of Discipline.

"The principal objection urged by the exchange against incorporation is that it will interfere with its power of discipline over its members and thus lower the standard that has been reached and that can only be maintained by an unquestioned local authority. Or wishing to criticize harshly I am yet bound to say that I do not consider the standard attained in the exchange under freedom from governmental supervision to be of such character as to constitute a valid reason against such supervision."

But aside from that no reason is perceived why any such result as suggested should follow from giving to an accused member whose reputation and entire business career and means of livelihood depend on the action of his members and supporters the manifest measure of justice of a review by an impartial authority. There is no danger that the courts will deal less severely or less effectively than has the exchange with the frauds practiced upon the public which it is the purpose of incorporation and regulation to prevent and punish. That would be difficult. Nor are they likely to regard manipulation with any less dislike.

If such exchanges require corporations whose securities are listed by them to file before the listing and thereafter at regular intervals for public inspection a verified statement showing item by item their assets and liabilities, their promoters and vendors, a verified copy of statement of any contract whether in writing or parol in any manner affecting the issue sought to be listed or relating to any interest therein of promoters, bankers, middlemen or vendors, and a verified statement of any transactions direct or indirect, between such corporations and their officers and directors.

By such publicity misrepresentations of the value of securities and speculation promoted by intimations of 'hidden assets' would be rendered more difficult if not impossible.

Curbing of Speculation.

"If they required that no orders to purchase the stock of any corporation should be executed without a partial payment of not less than 20 per cent. of the price agreed to be paid therefor."

Such a requirement would obviously curb speculation the smaller the margin.

required the larger the number of shares that a given sum can purchase.

"If they prohibited so far as possible the execution of simultaneous or substantially simultaneous orders proceeding from the same person or persons to buy and sell the same security for the purpose of creating an appearance of activity therein and any orders the purpose of which is to inflate or depress the price of any security."

Such a regulation, effectively enforced, would go far toward abolishing the processes of manipulation.

If they effectively prohibited members from pledging or hypothecating securities purchased and carried for the account of a customer for an amount greater than the unpaid portion of the purchase price, whether with or without the consent of such customer.

Without consent such practice is misappropriation, and in any case, as we have seen, it seriously endangers the safety of the customers' securities, thus making redemption in the event of the broker's failure possible only, if at all, by payment of the full amount borrowed by the broker.

The exchange should prohibit its members from making such statements and arrangements. They tend to increase speculation, and there is no reason why a broker should enforce his customer's right to do business with the customer's capital. Every man interested in borrowing to the full extent of the sum owing him by his customer.

"If their charters stated the conditions on which issues of securities shall be admitted to or removed from the trading list and provided that in every case their action in this regard shall be subject to judicial review at the suit of the issuing corporation or any owner of the securities."

This would prevent the use of the valuable privilege of listing as a club to corner the market, thus securing a monopoly and otherwise to manipulate the market. It would also prevent the manifest injustice to investors of depriving them of their market and destroying the availability of their securities for loans, which existed when they brought them to the exchange.

"If such exchanges required members to keep full and accurate books of account, showing the actual names and transactions of their customers and to give access thereto not only to officers of the exchange but to the appropriate State officers."

"Such a regulation would facilitate the detection of the objectionable practices sought to be eradicated. It is the only way in which detection can be assured."

Chief Reasons for Incorporation.

"The chief reasons, but by no means all the reasons, in favor of incorporation may be summarized under three general heads:

"None of the important reforms now before you that are needed to suppress and punish manipulation, wash sales and matched orders and other forms of fictitious transactions can be accomplished without incorporation and supervision by the State."

These offences cannot be discovered or proved without access to the books of the members. Under the antiquated restrictions of our Constitution it would be impossible to secure such access in a criminal prosecution. The laws you are about to pass on these subjects would be a dead letter. It is easy to understand why they are unenforced. If incorporation and the accompanying power to the Superintendent of Banks to examine the books of members can be defeated these laws may as well be stricken from the statute books."

"I want to call attention to section 33 of the proposed bill. In its present form it is hopelessly ineffective. Instead of providing for the examination by the Superintendent of the books of the members, it provides for examining the books of the exchange, which does not as a body conduct transactions in securities and keeps no books except of its revenues from members, rentals for quotation service and fees from issues of securities. The draftsmen undoubtedly intended to provide for the examination of the books of officers, governors, committees and members."

"Another of the main reasons for incorporation is to be found in the public desire for the control and right of control of the action of the exchange in listing or refusing the listing of securities and of striking listed securities from the official list."

"Can any fair-minded man who understands this question be found who will argue that the great public, quasi-governmental function should be longer left in the illegal irresponsible control of a body of private individuals subject to no judicial interference or control? Through the exercise of this despotic power to strike stocks from the listing, the draftsmen have been perpetrating on innocent investors and all sorts of oppression have been brought to bear to force the organization of trusts and combinations that might otherwise have been impossible."

Review by the Courts.

"Still another of the many reasons that may be cited in favor of incorporation is one that has been given by the opponents of this measure as their only argument against this measure, to wit, that it would enable a member who had been disciplined by the exchange by suspension or expulsion to review its action in the courts."

"It is inconceivable that the law will longer tolerate the barbarous situation that permits a man whose business, property and reputation are at the mercy of his constituents to have the control and right of control of the action of the exchange in listing or refusing the listing of securities and of striking listed securities from the official list."

"The fact that this incongruous form of irresponsible government of the greatest of our national agencies of finance has been tolerated all these years furnishes no reason why it should longer continue. It demonstrates the dangerous power that the financial interests have wielded over governmental agencies."

"I am convinced that the time will come, and before long, after these regulations have been enforced, when those who are now bitterly assailing the champions of this legislation will find that it has marked the dawn of a new era of usefulness and prosperity for them and will thank us for having pointed the way."

Undermyer a Lone Supporter.

Mr. Milburn said that the only conspicuous man he had found in favor of the incorporation bill was Mr. Undermyer.

At the last hearing, Mr. Milburn continued, "Gov. Sulzer was unable to

have that apostle of high standards in speculation Thomas W. Lawson come forward in support of the incorporation bill."

Regarding the published statements that the New York Stock Exchange has maintained a lobby here and been spending money, I want to say that I am the lobby maintained here. In all the years that legislation has been introduced in Albany affecting the exchange I have appeared before the legislative committee and presented my argument just as I would before the Court of Appeals and we have always abided by the result.

I am glad to find myself on the same side of the table with Mr. Undermyer. Before the Pigeon committee Mr. Undermyer had us at disadvantage. Here we are on a par, as he has not got this committee under lock and key.

As to the suggestion that a broker's books can be utilized by a State official as evidence against him I would repeat Mr. Undermyer's attention to the fact that the Constitution protects the broker from this invasion of his personal rights as decided by the Court of Appeals when the State Comptroller tried to get this power of visitation for the purpose of criminally prosecuting a broker for failing to pay the stock stamp tax.

Mr. Undermyer cannot circumvent the Constitution through the incorporation of the exchange. The exchange has never been criticised for not listing a security and has never taken a stock off the list except to prevent a corner. The question of listing a stock is purely a business one and the courts should not be asked to pass upon it.

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The wind storm crossed the Chicago and Alton railroad at Laramie, Mo., at about 2 o'clock and blew a freight train of twenty-one cars from a siding track. The caboose was blown 150 feet into a field. The storm was moving in a northeasterly direction. One thousand feet of telegraph wires were blown down along the Chicago and Alton and Wabash railroads.

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\$19,735 MORE FOR FLOOD FUND.

\$2,000 Sent to Ohio and \$3,000 to Indiana.

The contributions received yesterday by New York city organizations for the relief of flood sufferers amounted to \$19,735.94, of which \$18,018.24 came to the Red Cross Fund. The total raised here is approximately \$600,000.

Alton H. Parker, chairman of the citizens' committee